IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SIXTH DAY OF OCTOBER
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B.SESHASAYANA REDDY

WRIT PETITION NO : 4897 of 2005

Between:

1 Tangirala Rajani W/o. Kotaiah
R/o. Plot No.1
2 K. Yemetamma W/o. John
R/o. Plot No.2
3 Bantu Nagaratnam W/o. Brahmam
R/o. Plot No.3
4 Tangirala Mariyamma W/o. Prasada rao
R/o. Plot No.4
5 Banto Samrajyam W/o. Lajaru
R/o. Plot No.5
6 Parimi Jayamma W/o. Koteswara rao
R/o. Plot No.6
7 K. Ravamma W/o. Balaswamy,
R/o. Plot No.8
8 Tangirala Yevenamma W/o. Rama Rao
9 Dunna rajanamma W./o. Baburao
R/o. Plot No.10
10 Tangirala Savitri D/o. Venkataratnam
R/o. Plot No.11
11 Tangirala Sarojini D/o.Mohan Rao
R/o. Plot No.12
12 Tangirala Pitchamma W/o. Baburao
R/o. Plot No.13
13 Tangirala Marthamma W/o. Swamy
R/o. Plot No.14
14 TangiralaAnandamma W/o. Sreenu
R/o. Plot No.15
15 Adimalla Padma W/o. Yesabu
R/o. Plot No.16
16 Terati Ruthamma W/o. Koteswara Rao
R/o. Plot No.7
17 Manda Nirmala W/o. Yesobu

R/o. Plot No.17
18 Gudugundla Pitchamma W/o. Daveed
R/o. Plot No.18
19 Tangirala Rasamma W/o. Swamy
R/o. Plot No.19
20 Tangirala Jamalamma W/o. Prasada rao
R/o. Plot No.20
21 Yeddanapudi Nirmala W/o. Yesupadam
R/o. Plot No.21
22 Tangirala Vijayamma W/o. Vishnu,
R/o. Plot No.22
23 Tangirala Manikyam W/o. Sudhakar rao
R/o. Plot No.23
24 Moguluri Mysamma W/o. Nathaniyelu
R/o. Plot No.24
25 Revuri W/o. Krupanandam
R/o. Plot No.25
26 Revuri Nirmala W/o. Koteswara rao
R/o. Plot No.26
27 Penumula Nirmala W/o. Krishna rao
R/o. Plot No.27
28 Penumula Sampoornamma W/o. Danial,
R/o. Plot No.28
29 K. Nagendramma W/o. Guru swamy
R/o. Plot No.29
30 Velpula Tulasamma W/o. Jeevaratnam
R/o. Plot No.30
31 Tangirala Tirupathamma D/o. Venkateswara Rao
R/o. Plot No.32
32 Tangirala Dhanalakshmi W/o. Bhaskara Rao
R/o. Plot No.32
33 Tangirala Sarojini W/o. Shadruck
34 K. Malleswari W/o. Gantaiah
R/o. Plot No.34
35 K. Kumari W/o. Bazaru
R/o. Plot No.35
36 Revuri Parimala Kumari W/o. Jonson
37 Nookapogu Jyothi D/o. Baburao
R/o. Plot No.38
38 Tangirala Mariyamma W/o. Srinivasa Rao
39 K. Buzzi D/o. Koteswara Rao
40 Tangirala Mariyamma W/o. Kotaiah
R/o. Plot No.40
41 Moguluri Ruthamma W/o. Thana
R/o. Plot No.41
42 Moguluri Padma W/o. Irmiya
R/o. Plot No.42
43 Pesaramilli Pentamma W/o. Mibhayeulu
44 Tangirala Suvarthamma D/o. Nageswara Rao
R/o. Plot No.44
45 Tangirala Venkataratnamma W/o. Sreenu
46 G. Baby W/o. Ananda Rao
47 Bokka Sulochanarani W/o. Sadgunarao

R/o. Plot No.47
48 Bokka Varalakshmi W/o. Yesupadam
R/o. Plot No.48
49 P. Superamma W/o. Moshe
R/o. Plot No.49
50 P. Ruthamma W/o. AnandaRao
R/o. Plot No.50
51 Moguluri Manikyam W/o. Yesobu
R/o. Plot No.51
52 Tangirala Satyavathi W/o. Mariya Dasu
R/o. Plot No.52
53 Tangirala Mariyamma W/o. Yakobu
R/o. Plot No.53
54 Rudrapogu Annapurna W/o. Bazaru
R/o. Plot No.54
55 Rudrapogu Vijayarani W/o. Jayaraju
R/o. Plot No.55
56 Nekarikanti Buzzi W/o. Yesupadam
57 G. Nookamma W/o. Yabu
R/o. Plot No.57
58 Tangirala Hayamma W/o. Rajeswara Rao
59 Kamunuri Padmavathi W/o. Ravi
R/o. Plot No.59
60 Kamunuri Mariyamma W/o. Prasada Rao
R/o. Plot No.60
61 Banka Yesamma W/o. Rajaratnam
R/o. Plot No.98
62 Kanagala Devamani W/o. Stalin
R/o. Plot No.62
63 Tangirala Nirmala W/o. Nayudu
R/o. Plot No.63
64 Nootakki Nagaratramma W/o. Gopaiah
R/o. Plot No.64
65 Tangirala Bhagyamma W/o. Bhushaiah
R/o. Plot No.65
66 Yeddanapudi Krupamma W/o. Venkateswarlu
R/o. Plot No.66
67 Akula Rajyamma W/o. Edayaiah
R/o. Plot No.100
68 Tangirala Mariyamma W/o. Venkateswarlu
R/o. Plot No.68
69 Tangirala Mahalakshmi W/o. Nagaiah
R/o. Plot No.102
70 Tangirala Padmavathi W/o. Bhaskara Rao
R/o. Plot No.103
71 Manda Jayamma W/o. Niranjan Rao
R/o. Plot No.101 (ALL ARE R/O. PARITALA VILLAGE,

KANCHIKACHERLA MANDAL, KRISHNA DISTRICT.)

..... PETITIONERS

AND

1 The District Collector, Krishna District, Machilipatnam.
2 The Mandal Revenue Officer, Kanchikacherla Mandal, Krishna

District.
3 Syed Kareemun, W/o. Khaja
Paritala Village, Kanchikacherla Mandal, Krishna District
4 Patan Begumbee W/o. Mahaboob
Paritala Village, Kanchikacherla Mandal, Krishna District
5 Shaik Bibi W/o. Jani
Paritala Village, Kanchikacherla Mandal, Krishna District
6 Shaik Gasia W/o. Gouse
Paritala Village, Kanchikacherla Mandal, Krishna District
7 Shaik Raheemun W/o. Bikari
Paritala Village, Kanchikacherla Mandal, Krishna District
8 Shaik Sayabi W/o. Hussain
Paritala Village, Kanchikacherla Mandal, Krishna District
9 Shaik Karimun W/o. Subhani
Paritala Village, Kanchikacherla Mandal, Krishna District
10 Shaik Kulsanbee W/o. Chanbasha
Paritala Village, Kanchikacherla Mandal, Krishna District
11 ShaikHafijun W/o.Janimiya
Paritala Village, Kanchikacherla Mandal, Krishna District
12 ShaikMastanbee W/o.Moulani
Paritala Village, Kanchikacherla Mandal, Krishna District
13 ShaikJaanbee W/o. Jani
Paritala Village, Kanchikacherla Mandal, Krishna District
14 Shaik Hussainbee W/o. Miravalli
Paritala Village, Kanchikacherla Mandal, Krishna District
15 Shaik Malabee W/o. Karimulla
Paritala Village, Kanchikacherla Mandal, Krishna District
16 Syed Fatimun W/o. Kasim
Paritala Village, Kanchikacherla Mandal, Krishna District
17 Shaik Mumtaz W/o. Gorae
Paritala Village, Kanchikacherla Mandal, Krishna District
18 Shaik Hussainbee W/o. Dadavalli
Paritala Village, Kanchikacherla Mandal, Krishna District
19 Shaik Zameela W/o. Moulani
Paritala Village, Kanchikacherla Mandal, Krishna District
20 Shaik Mallika W/o. Baji
Paritala Village, Kanchikacherla Mandal, Krishna District
21 Shaik Moti W/o. Basha
Paritala Village, Kanchikacherla Mandal, Krishna District
22 Shaik Asha W/o. Sultan
Paritala Village, Kanchikacherla Mandal, Krishna District
23 Shaik Gasia Begum W/o. Moulani
Paritala Village, Kanchikacherla Mandal, Krishna District
24 Shaik Noorjahan W/o. Baji
Paritala Village, Kanchikacherla Mandal, Krishna District
25 Shaik Badalbee W/o. Khajamohiddin
Paritala Village, Kanchikacherla Mandal, Krishna District
26 Shaik Hussainbee W/o. Ahmmmad
Paritala Village, Kanchikacherla Mandal, Krishna District

27 Shaik Khajamoheddin W/o. Lal Ahmmad
Paritala Village, Kanchikacherla Mandal, Krishna District
28 Syed Fatimun W/o. Jaalim
Paritala Village, Kanchikacherla Mandal, Krishna District
29 Shaik Pyari W/o. Khaja
Paritala Village, Kanchikacherla Mandal, Krishna District
30 Shaik Ameena W/o. Pedda Mastan
Paritala Village, Kanchikacherla Mandal, Krishna District
31 Shaik Mastanbee W/o. Md.Khasim
Paritala Village, Kanchikacherla Mandal, Krishna District
32 Shaik Jaanbee W/o. Khaja
Paritala Village, Kanchikacherla Mandal, Krishna District
33 Shaik Karimun W/o. Khasim
Paritala Village, Kanchikacherla Mandal, Krishna District
34 Syed Shakeela W/o.Abbas
Paritala Village, Kanchikacherla Mandal, Krishna District
35 ShaikAsha W/o.Masun
Paritala Village, Kanchikacherla Mandal, Krishna District
36 Shaik Gaalibi W/o. Karimulla
Paritala Village, Kanchikacherla Mandal, Krishna District
37 Shaik Jaanbee W/o. Galishahid
Paritala Village, Kanchikacherla Mandal, Krishna District
38 Shaik Gorae W/o. Karimulla
Paritala Village, Kanchikacherla Mandal, Krishna District
39 Shaik Papamma W/o. Bashira
Paritala Village, Kanchikacherla Mandal, Krishna District
40 Shaik Shameela Begum W/o. Khaja
Paritala Village, Kanchikacherla Mandal, Krishna District
41 Shaik Karima W/o. Mastanvalli
Paritala Village, Kanchikacherla Mandal, Krishna District
42 Shaik Nannebee W/o.Baji
Paritala Village, Kanchikacherla Mandal, Krishna District
43 Shaik Moti W/o. Esuf Salaam
Paritala Village, Kanchikacherla Mandal, Krishna District
44 Patan Parveen Begum W/o. Amir Khan
Paritala Village, Kanchikacherla Mandal, Krishna District
45 Shaik Moti W/o. Subhani
Paritala Village, Kanchikacherla Mandal, Krishna District
46 Syed Begum W/o. Jani
Paritala Village, Kanchikacherla Mandal, Krishna District
47 Shaik Noorjahan W/o. Shareepuhiddin
Paritala Village, Kanchikacherla Mandal, Krishna District
48 Shaik Rajiabegum W/o. Karimulla
Paritala Village, Kanchikacherla Mandal, Krishna District
49 Shaik Khajabee W/o. Jani
Paritala Village, Kanchikacherla Mandal, Krishna District
50 Patan Karimun W/o. Uddansa
Paritala Village, Kanchikacherla Mandal, Krishna District
51 Shaik Shakiraa W/o. Subhani
Paritala Village, Kanchikacherla Mandal, Krishna District
52 Shaik Fathimun W/o. Galishahid
Paritala Village, Kanchikacherla Mandal, Krishna District
53 Shaik Doulat W/o. Basha

Paritala Village, Kanchikacherla Mandal, Krishna District
54 Shaik Ameenabee W/o. Khaja
Paritala Village, Kanchikacherla Mandal, Krishna District
55 Shaik Jaiyeenabee W/o. Madarsa
Paritala Village, Kanchikacherla Mandal, Krishna District
56 Shaik Kasimbee W/o. Khaji
Paritala Village, Kanchikacherla Mandal, Krishna District
57 Shaik Mumtaz W/o. Dastagiri
Paritala Village, Kanchikacherla Mandal, Krishna District
58 Shaik Fathimun W/o.Firaa
Paritala Village, Kanchikacherla Mandal, Krishna District
59 Shaik Jaanbegum W/o. Abdul Raheem
Paritala Village, Kanchikacherla Mandal, Krishna District
60 Syed Bujji W/o. Mastaan
Paritala Village, Kanchikacherla Mandal, Krishna District
61 Shaik Mastaanbee W/o. Mastaan
Paritala Village, Kanchikacherla Mandal, Krishna District
62 Syed Khasimma W/o. Nanne
Paritala Village, Kanchikacherla Mandal, Krishna District
63 Shaik Jaanbee W/o. Allah Babu
Paritala Village, Kanchikacherla Mandal, Krishna District
64 Shaik Ajeemunnisa Begum W/o. Khaji
Paritala Village, Kanchikacherla Mandal, Krishna District
65 Syed Naseema W/o. Anwar
Paritala Village, Kanchikacherla Mandal, Krishna District
66 Shaik Mastaanbee W/o. Khasim
Paritala Village, Kanchikacherla Mandal, Krishna District
67 Shaik Gaseeya Begum W/o. Karima
Paritala Village, Kanchikacherla Mandal, Krishna District
68 Shaik Bibi W/o. Jani
Paritala Village, Kanchikacherla Mandal, Krishna District
69 Shaik Janimunni W/o. Karimulla
Paritala Village, Kanchikacherla Mandal, Krishna District
70 Shaik Hareefunnisa Begum W/o. Khaja
Paritala Village, Kanchikacherla Mandal, Krishna District
71 Moham,med Fathimun W/o. Ansari
Paritala Village, Kanchikacherla Mandal, Krishna District
72 Shaik Hussainbee W/o. Mastaan
Paritala Village, Kanchikacherla Mandal, Krishna District
73 Shaik Chinnammayee W/o. Hasanbudee
Paritala Village, Kanchikacherla Mandal, Krishna District
74 Shaik Janimunni W/o. Shabashee
Paritala Village, Kanchikacherla Mandal, Krishna District
75 Mohammed Najima W/o. Basha
Paritala Village, Kanchikacherla Mandal, Krishna District
RR 3to75 are impleaded as per court order dt.28-4-2005 in WPMP

8865 of 2005

.....RESPONDENTS

The Court made the following:

ORDER:

This writ petition is filed by the petitioners numbering 71 assailing the action of the Mandal Revenue Officer in canceling the assignment of house site pattas granted in their favour.

2. Respondents 3 to 75 came on record claiming that house sites have been allotted in their favour consequent on the cancellation of the pattas granted in favour of the petitioners.

3. It is the case of the petitioners that each of them has been assigned 2 cents of house site pattas on 02-02-1996 and pattas have been issued in their name on the even date. It is their further case that they have been put in possession in pursuance of the grant of house site pattas. When the second respondent started interfering with their possession, they have chosen to approach this Court with a prayer to declare the action of the Mandal Revenue Officer-second respondent in initiating the proceedings for their eviction from the house sites, as arbitrary and illegal.

4. The respondents 1 and 2 filed counter-affidavit and respondents 3 to 75 filed another counter-affidavit. It is stated in the counter-affidavit of the respondents 1 and 2 that the petitioners were allotted an extent of 2 cents each in the year 1996. As they have not occupied the site and put up constructions thereon even after six years, they violated condition No.2 of the patta certificate. Individual notices were issued to all the assignees. The petitioners did not choose to submit any explanation despite service of notices on them. Hence, house site pattas issued to the writ petitioners during the year 1996 were cancelled by the Mandal Revenue Officer, Kanchikacherla, vide his proceedings RC.B/250/200 dated 20-08-2003 and copy of the order was sent for service to each of the petitioner. But the petitioners refused to receive the same. Hence, got published by affixture in the notice board of the Gram

Panchayat Office, Paritala vllage. It is further stated in the counter-affidavit that on 22-02-2005 when the demarcation of the house site plots is going on to handover the site to new assignees, the petitioners started to encroach the sites and caused much inconvenience to the officials to handover the plots to new assignees. I deem it appropriate to refer para 3 of the counter-affidavit and it is thus:

> "In reply to para 4 it is submitted that, the contention of the petitioners that the 2nd respondent being pressurized by the Sarpanch of the village to evict the petitioners illegally and re-allot the site to the persons belonging to the group of the sarpanch is not correct. The writ petitioners to whom the house site plots were allotted in the year 1996 had not occupied the site and not constructed the houses in that site even after six years were lapsed. This shows the disinterest of the petitioners in the house site allotted to them. They did not even respond to the notice given by the Mandal Revenue Officer in the year 2002 even after a lapse of eight months. Hence their pattas were cancelled long back i.e., 20-08-2003 vides this office proceeding RC.B/250/2002 dated 20-08-2003. The cancellation orders were directed to serve on the petitioners, but the petitioners refused to receive the same, hence served by affixing on the doors of the houses of petitioners. Against the cancellation orders no appeal is filed before the Revenue Divisional Officer or any authority by the petitioners. The order has become final. A detailed report was submitted by the Mandal Revenue Officer to the Revenue Divisional Officer, Vijayawada, in this office RC.B/250/2002 dated 20-08-2003 explaining the circumstances under which the house sites plots of the writ petitioners were cancelled, along with a fresh list of 136 beneficiaries and got approved the list by the Revenue Divisional Officer, Vijayawada on 30-08-2003 and pattas were distributed to the new beneficiaries as approved by the Revenue Divisional Officer, Vijayawada."

5. The counter affidavit of respondents 3 to 75 is almost similar to the counter-affidavit of respondents 1 and 2. An additional affidavit has been filed by the petitioners.

6 . Heard the learned counsel for the petitioners and the learned Government Pleader for Assignment appearing for the respondents 1 and 2 and the learned counsel appearing for the respondents 3 to 75.

7. Learned counsel for the petitioners submits that the authority, who cancelled the assignment is not competent authority and therefore, whatever proceedings issued in respect of the cancellation of the assignment are non-est in law. He further submits that house site pattas granted to the petitioners indicate that it is only the Revenue Divisional Authority, who is empowered to re-enter in case of any violation of the conditions of the patta and since the order of cancellation has been passed by the Mandal Revenue Officer, the order passed by him is contrary to the terms and conditions of the grant of patta. Various other submissions have been made which are not required to be dealt with in view of the order proposed to be passed in this case.

8. Learned Government Pleader appearing for respondents 1 and 2 submits that since the assignment was made by the Mandal Revenue Officer, he is competent to cancel the assignment and therefore, the action of the Mandal Revenue Officer in canceling the assignment cannot be found fault.

9. Learned counsel appearing for the respondents 3 to 75 submits that the respondents 3 to 75 entered into possession and therefore, the cause of action for the writ petition does not survive.

10. It is no more in dispute that the house site pattas were granted to the petitioners in the year 1996. One of the conditions of the patta indicates that it is the Revenue Divisional Officer who is competent to re-enter in case of violation of any of the conditions by the grantee (petitioners). Admittedly, the order cancelling the house site pattas has been passed by the Mandal Revenue Officer.

11. The question that is required to be resolved in this case is whether the Mandal Revenue Officer is competent to cancel the assignment of house site pattas granted in favour of the petitioners.

12. Learned Government Pleader for respondents 1 and 2 tried to sustain the order of the Mandal Revenue Officer by referring to G.O.Ms.No.1137, Revenue Department dated 04-07-1963. The above referred GO relates to allotment of lands and not to house site patta. The Board Standing Order No.21 deals with grant of assignment of house sites in villages and towns. Right of re-entry is vested with the Divisional Officer. In other words, it is only the Divisional Officer who has to pass orders canceling the house site patta. I deem it appropriate to refer the relevant portion of Board Standing Order No.21 and it is thus:

> "Right of re-entry:- The right of re-entry, whether under the provisions of the order of assignment or under those of any subsidiary agreement, should be enforced only under the orders of the Divisional Officers. Before ordering such re-entry, Divisional Officers may, as a matter of grace, give notice (a) to the grantee if he can be found and (b) in the District Gazette."

13. Even as per the terms and conditions of the grant mentioned in the house site patta, it is only the Revenue Divisional Officer who is competent to cancel the assignment.

14. In that view of the matter, I am of the considered view that the order passed by the Mandal Revenue Officer cancelling the assignments of house site plots granted in favour of the petitioners is not in accordance with the provisions of the A.P. Board Standing Orders.

15. Accordingly, the writ petition is allowed setting aside the order passed in Proceeding RC.B/250/2002 dated 20-08-2003, and giving liberty to the authorities to initiate necessary proceedings in case of violation of any of the conditions of grant, in accordance with law. No order as to costs.

06th October, 2005

SKM